

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

JESSICA JONES, et al.,

Plaintiffs,

v.

VARSITY BRANDS, LLC, et al.

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

JURY DEMAND

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE REPLY IN SUPPORT
OF MOTION FOR LEAVE TO FILE LATE-PRODUCED DOCUMENT IN
OPPOSITION TO SUMMARY JUDGMENT**

Case No. 2:20-cv-02892-SHL-tmp

**PLAINTIFFS' MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF MOTION FOR LEAVE TO
FILE LATE-PRODUCED DOCUMENT IN OPPOSITION TO SUMMARY JUDGMENT**

Plaintiffs Jessica Jones and Christina Lorenzen (“Plaintiffs”), seek leave from the Court to file a reply in support of their Motion for Leave to File Late-Produced Document in Opposition to Summary Judgment, ECF No. 523, for the following reasons.

Defendant Charlesbank’s Opposition to Plaintiffs’ Motion for Leave to File Late-Produced Document in Opposition to Summary Judgment, ECF No. 527 (the “Charlesbank Opposition”), claims that Plaintiffs have had access to the document they now seek to file since September 2021. *Id.* at ¶ 2. This is wrong. Plaintiffs had access to Charlesbank’s website in 2021, which included a case study about Varsity. That case study is no longer available on the Charlesbank website. Charlesbank only produced the document in question to Plaintiffs on October 6, 2023, after Plaintiffs had filed their opposition to Charlesbank’s motion for summary judgment. *See* Declaration of David H. Seidel in Support of Plaintiffs’ Motion for Leave to File Late-Produced Document in Opposition to Summary Judgment, ECF No. 522-1 (the “Seidel Declaration”) at ¶ 2.

Charlesbank asserts that the drafts of webpage language it produced during discovery were “substantively the same or very similar to the version” Varsity produced to Plaintiffs on October 6, 2023, 14 months after the close of discovery. Charlesbank Opposition at ¶ 5. Charlesbank produced 5 redlines that purport to support Charlesbank’s argument, but each of the redlines shows substantial differences from draft to draft and to the October 6 version. *See* Seidel Declaration, ¶ 4.

Charlesbank also asserts that Plaintiffs were dilatory in not including the late-produced document with their opposition to Charlesbank’s motion for summary judgment. Charlesbank Opposition at ¶ 6. But as noted above, Charlesbank did not produce the document until three weeks *after* Plaintiffs filed their opposition.

Plaintiffs seek leave to address these and other issues in a brief reply, attached hereto as Exhibit A.

Dated: November 21, 2023

Respectfully submitted,

By: /s/ Joseph R. Saveri
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CERTIFICATE OF CONSULTATION

I hereby certify, pursuant to Local Rule 7.2(a)(1)(B), that on November 21, 2023, my colleague, Louis Kessler, emailed counsel for Defendants (specifically Steven Kaiser, George Cary, Savannah Haynes, Matt Mulqueen, Brendan Gaffney, and Nicole Riccio) advising them that Plaintiffs intended to file a motion seeking leave to file a reply in support of their Motion for Leave to File Late-Produced Document in Opposition to Summary Judgment (ECF No. 522) and asking if they opposed. Mr. Mulqueen responded on November 21, 2013, saying that Defendants do not oppose this motion.

/s/ Joseph R. Saveri

Joseph Saveri